

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6436 of 1990

Date of decision: 30-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHANBHAI RAMJIBHAI

Versus

DY EXECUTIVE ENGINEER

Appearance:

MRS DT SHAH for Petitioner

None present for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/07/97

ORAL JUDGEMENT

This special civil application is directed against the award of the Labour Court in Reference (LCR) No. 465/87 dated 26th September, 1989 under which reference of the petitioner was dismissed. The petitioner has raised industrial dispute in respect of termination of his services, on the ground that the termination was made in violation of the provisions of section 25F and 25G of the Industrial Disputes Act, 1947. In the impugned award none of the ground raised by the petitioner has been accepted. Hence this special civil application.

2. Learned counsel for the petitioner submitted that the Labour Court has committed serious illegality in dismissing the reference. The petitioner has made out the case of violation of the provisions of section 25F and section 25G of the Industrial Disputes Act, 1947.

3. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner. The labour court has recorded the finding of fact that the petitioner has worked only for 325 days during the period from 21-5-1983 to 20-6-86. The petitioner has failed to show that he has completed 240 days in 12 calender months preceding the date of termination. The learned counsel for the petitioner is unable to satisfy the court that the petitioner has worked for 240 days in the preceding 12 calender months. In view of this fact the Tribunal has not committed any error in holding that there is no violation of the provisions of section 25F of the Industrial Disputes Act, 1947. So far as violation of section 25G of the Act is concerned, the learned counsel for the petitioner is unable to show anything from the record in support of his contention. Be that as it may.

4. The counsel for the petitioner submitted that after termination of services of the petitioner the respondent has engaged another person named Bijal in his place. The Labour Court has considered this aspect also; and the petitioner has failed to produce any proof in support of this case. The burden was of the petitioner to prove that after his termination from service another person has been engaged. When he failed to prove this fact, then the Labour Court has not committed any error in not accepting this grievance of the petitioner. Otherwise also, even if some body else has been engaged after termination of the services of the petitioner, it cannot be said that it is a case of violation of the

provisions of section 25G of the I.D. Act. No other point is raised.

5. In the result this special civil application fails and the same is dismissed. Rule discharged. Interim relief granted, if any, stands vacated. No order as to costs.

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